

quirement established in paragraph (1) if the State includes in its plan”, was executed by making the substitution for “approve a State’s application to waive the 40-percent requirement established in paragraph (1) if the State includes in its plan”, to reflect the probable intent of Congress.

Pub. L. 106-469, §601(b)(2)(A), struck out “(A)” before “The Secretary shall approve”.

Subsec. (c)(1). Pub. L. 106-469, §601(b)(3)(A), (B), in introductory provisions, substituted “paragraph (3)” for “paragraphs (3) and (4)” and “\$2,500” for “\$1,600”.

Subsec. (c)(1)(E). Pub. L. 106-469, §601(b)(3)(C)-(E), added subpar. (E).

Subsec. (c)(3). Pub. L. 106-469, §601(b)(4), in introductory provisions, substituted “2000, the \$2,500 per dwelling unit average” for “1991, the \$1,600 per dwelling unit limitation” and “average amount” for “limitation amount”, in subpar. (A), substituted “average” for “limitation”, and, in subpar. (B), inserted “the” after “beginning of”.

Subsec. (c)(4). Pub. L. 106-469, §601(b)(5), struck out par. (4), which required the Secretary, upon State application, to establish a separate average per dwelling unit limitation for dwelling units in the State.

1990—Subsec. (a). Pub. L. 101-440, §7(d), substituted “(1) Except as provided in paragraph (2), an average” for “An average”, inserted before period at end “, and a State may provide in the plan adopted pursuant to subsection (b) for recipients of grants of less than \$350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part”, and added par. (2).

Subsec. (c)(1). Pub. L. 101-440, §7(e)(1), substituted “Except as provided in paragraphs (3) and (4), the expenditure” for “The expenditure”.

Subsec. (c)(3), (4). Pub. L. 101-440, §7(e)(2), added pars. (3) and (4).

Subsec. (d). Pub. L. 101-440, §7(i), added subsec. (d).  
Pub. L. 101-440, §7(f), struck out subsec. (d) which established a performance fund to provide financial assistance to those States the Secretary determined to have demonstrated the best performance during the previous fiscal year in providing weatherization assistance.

Subsec. (e). Pub. L. 101-440, §7(i), added subsec. (e).  
1984—Subsec. (a). Pub. L. 98-558, §403(1), substituted provisions that an average of at least forty percent of the funds provided shall be spent for weatherization for former provisions which directed the Secretary to use funds to the maximum extent practicable.

Subsec. (c). Pub. L. 98-558, §403(2), in amending subsec. (c) generally, substituted provisions that expenditures shall not exceed an average of \$1,600 per dwelling unit for former provisions which provided for an \$800 per dwelling unit limit in par. (1), struck out “(not to exceed \$150)” after “the cost” in par. (1)(D), substituted provisions that dwelling units partially weatherized between certain dates could receive further financial assistance under this part for former provisions that \$800 limit would not apply if the State policy advisory council requested greater amounts from the Secretary and the Secretary gave approval in par. (2), and deleted former par. (3) which provided that in areas where the Secretary, after consultation with the Secretary of Labor, determined that there was an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors and foremen, the Secretary could increase the limitation of \$800 to not more than \$1,600 to cover the costs of paying persons who would install the weatherization materials and, to the maximum extent practicable, who would otherwise be able to participate as training participants and public service employment workers pursuant to the Comprehensive Employment and Training Act of 1973.

Subsec. (d). Pub. L. 98-558, §404, added subsec. (d).  
1980—Subsec. (a). Pub. L. 96-294, §§571, 577(2), substituted “Secretary” for “Administrator” and provisions limiting amounts used for administrative purposes in any grant made by the Secretary under this part for provisions limiting amounts used for administrative purposes in any grant made pursuant to section 6863(a) of this title and any allocations under this section.

Subsec. (b). Pub. L. 96-294, §§573(a), 577(2), substituted in provision preceding par. (1) “Secretary” for “Administrator”, redesignated former par. (2)(C) as (B), and struck out former par. (2)(B), which related to funds allocated for carrying out weatherization projects under this part in the geographical area served by the emergency program.

Subsec. (c)(1). Pub. L. 96-294, §§572(1), 575, inserted in provision preceding subpar. (A) reference to par. (3) and in subpar. (D) substituted “\$150” for “\$100”.

Subsec. (c)(2). Pub. L. 96-294, §577(2), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (c)(3). Pub. L. 96-294, §572(2), added par. (3).  
1978—Subsec. (a). Pub. L. 95-619, §231(c)(1), authorized expenditure of allocations under this part for costs related to weatherization of a dwelling unit as provided in subsec. (c) of this section and substituted an administrative expenses limitation of five percent of any allocation under this section for a similar limitation of ten percent of any such allocation.

Subsec. (c). Pub. L. 95-619, §231(c)(2), included expenditure of financial assistance provided under this section for costs related to procurement and installation of weatherization materials in dwelling units in the maximum amount available per dwelling unit and increased such maximum amount to \$800 per unit.

#### Statutory Notes and Related Subsidiaries

##### PERFORMANCE FUND; RESTRICTION ON USE

Pub. L. 99-190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1253, provided: “That section 404 of Public Law 98-558 [enacting subsec. (d) of this section] shall not be effective in any fiscal year in which the amount made available for low income weatherization assistance from appropriations under this head is less than 5 per centum above the amount made available in fiscal year 1985.”

#### §6866. Monitoring and evaluation of funded projects; technical assistance; limitation on assistance

The Secretary, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 6867(a) of this title, through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Secretary shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Secretary may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed up to 20 percent of the sums appropriated for such year under this part.

(Pub. L. 94-385, title IV, §416, Aug. 14, 1976, 90 Stat. 1156; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760; Pub. L. 111-5, div. A, title IV, §407(d), Feb. 17, 2009, 123 Stat. 146.)

**Editorial Notes**

## AMENDMENTS

2009—Pub. L. 111-5 substituted “up to 20 percent” for “10 percent”.

1980—Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing.

**§ 6867. Administration of projects receiving financial assistance****(a) Reporting requirements**

The Secretary, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Secretary and the Director to carry out their functions under this part.

**(b) Maintenance of records**

Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Secretary may prescribe in order to assure an effective financial audit and performance evaluation of such project.

**(c) Audit and examination of books, etc.**

The Secretary, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

**(d) Method of payments**

Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(Pub. L. 94-385, title IV, §417, Aug. 14, 1976, 90 Stat. 1156; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

**Editorial Notes**

## AMENDMENTS

1980—Subsecs. (a) to (c). Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing.

**§ 6868. Approval of application or amendment for financial assistance; administrative procedures applicable**

(a) The Secretary shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 6863(c) of this title, as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Secretary may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever

the Secretary, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

(Pub. L. 94-385, title IV, §418, Aug. 14, 1976, 90 Stat. 1157; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

**Editorial Notes**

## AMENDMENTS

1980—Subsec. (a). Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing.

**§ 6869. Judicial review of final action by Secretary on application****(a) Time for appeal; jurisdiction; filing of administrative record by Secretary**

If any applicant is dissatisfied with the Secretary’s final action with respect to the application submitted by it under section 6864 of this title or with a final action under section 6868 of this title, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28.

**(b) Conclusiveness of findings of Secretary; remand; modified findings by Secretary; certification of record**

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action. The Secretary shall certify to the court the record of any such further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

**(c) Power of court to affirm or set aside action of Secretary; appeal to Supreme Court**

The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28.